

name and mailing address of the complainant and the recipient, identify the TVA financial assistance involved, and state the facts and occurrences (including dates) which led the complainant to believe that an act of prohibited discrimination has occurred. Anonymous complaints will not be accepted or filed under this section, but may be the basis for a compliance review. TVA will reject any complaint which does not fall within the coverage of the Act and this part, and may reject or require supplementation or clarification of any complaint which does not contain sufficient information for further processing as set forth in this paragraph. A complaint shall not be deemed filed until all such information has been provided to TVA.

(b) *Prompt resolution of complaints.* The complaint shall be resolved promptly. To this end, TVA shall proceed with the complaint without undue delay so that the complaint is resolved within 180 calendar days after it is filed with TVA. The recipient and complainant involved in each complaint are required to cooperate in this effort. Failure to cooperate on the part of the complainant may result in cancellation of the complaint, while such failure on the part of the recipient may result in enforcement action as described in § 1309.15.

(c) *Mediation of complaints.* All complaints which fall within the coverage of the Act and this part will be referred to a mediation agency designated by the Secretary.

(1) The participation of the recipient and the complainant in the mediation process is required, although both parties need not meet with the mediator at the same time.

(2) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing. The mediator shall send a copy of the settlement to TVA. No further action shall be taken based on that complaint unless it appears that the complainant or the recipient is failing to comply with the agreement.

(3) Not more than 60 days after the complaint is filed, the mediator shall return a still unresolved complaint to

TVA for initial investigation. The mediator may return a complaint at any time before the end of the 60-day period if it appears that the complaint cannot be resolved through mediation.

(4) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(d) *Investigation.* (1) TVA will make a prompt investigation whenever a complaint is unresolved within 60 days after it is filed with TVA or is reopened because of a violation of the mediation agreement. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with the Act and this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with the Act and this part.

(2) As part of the initial investigation, TVA shall use informal fact finding methods including joint or individual discussions with the complainant and recipient to establish the facts, and, if possible, to resolve the complaint to the mutual satisfaction of the parties. TVA may seek the assistance of any involved State agency.

(3) If TVA cannot resolve the matter within 10 calendar days after the mediator returns the complaint, it shall complete the investigation, attempt to achieve voluntary compliance satisfactory to TVA, if the investigation indicates a violation, and arrange for enforcement as described in § 1309.15, if necessary.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.15 How will TVA enforce compliance with the Act and this part?

(a) If a compliance report, self-evaluation, or preaward review indicates a violation or threatened violation of the Act or this part, TVA shall attempt to secure the recipient's voluntary compliance with the Act and this part. If

the violation or threatened violation cannot be corrected by informal means, compliance with the Act and this part may be effected by the following means:

(1) Termination of a recipient's financial assistance under the program or activity involved where the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an appropriate hearing officer.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this part.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency which will have the effect of correcting a violation of the Act or this part.

(iii) Commencement by TVA of proceedings to enforce any rights of TVA or obligations of the recipient created by the contract, the Act, or this part.

(b) Any termination under paragraph (a)(1) of this section shall be limited to the particular recipient and the particular program or activity (or portion thereof) receiving financial assistance from TVA which is found to be in violation of the Act or this part. No termination shall be based in whole or in part on a finding with respect to any program or activity which does not receive financial assistance from TVA.

(c) No assistance will be terminated under paragraph (a)(1) of this section until:

(1) TVA has advised the recipient of its failure to comply with the Act or this part and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after TVA has sent a written report of the circumstances and grounds of the termination of assistance to the committees of the Congress having legislative jurisdiction over the program or activity involved. A report shall be filed in each case in which TVA has determined that assistance will be terminated under paragraph (a)(1) of this section.

(d) TVA may defer granting new financial assistance to a recipient when termination proceedings under paragraph (a)(1) of this section are initiated.

(1) New financial assistance includes all assistance administered by or through TVA for which an application or approval, including renewal or continuation of existing activities, or authorization of new activities, is required during the deferral period. New financial assistance does not include assistance approved prior to the beginning of termination proceedings.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing under paragraph (a)(1) of this section. A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and TVA. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.16 What is the alternate funds disbursement procedure?

When TVA withholds funds from a recipient under this part, TVA may contract to disburse the withheld funds directly to any public or nonprofit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to comply with this part and to achieve the goals of the Federal financial assistance involved.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.17 What is the procedure for hearings and issuance of TVA decisions required by this part?

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1309.15(a)(1), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected recipient. This notice shall advise the recipient of the action proposed to be taken, the specific provision under which the proposed action